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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,222	12/15/2003	Cameron Bolitho Browne	00169.002800	8645
5514 7590 07/03/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER LUU, SY D	
			ART UNIT 2174	PAPER NUMBER
			MAIL DATE 07/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/734,222

Applicant(s)

BROWNE, CAMERON B.

Examiner

Sy D. Luu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/26/04 and prior.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-9, 12-14, 17-19 and 22-30 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 10, 11, 15, 16, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                                   |                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                              | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/26/04; 5/3/04; 1/26/04</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 11, 16, and 21 recite the limitation "said images" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 6-9, 12-14, 17-19, 22-30 are rejected under 35 U.S.C. 102(a) as being anticipated by Barber et al. ("Barber", US 5,751,286).

As per claim 1, Barber teaches a data processing apparatus comprising:

a method of classifying one or more images, said method comprising the steps of: selecting an iconic representation of at least one image displayed on a graphical user interface, and moving said iconic representation to a target position within an area defined by said graphical user interface, according to a classification of said image (fig. 5; col. 9, lines 25-30; *element labeled*

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*"Bears" in Category window 94 being moved to target position in window 90); and determining an association between said at least one image and at least one predetermined metadata item representing said classification, in response to said iconic representation being positioned at said target position (element image labeled "Bears" is associated with a predetermined metadata item "BEARS"); and the step of storing said association between said at least one image and said at least one metadata item (inherently stored at least in RAM in order to keep track of user's current assignment of the associations for proper displaying).*

As per claim 2, Barber teaches the steps of: generating an iconic representation of said metadata item; and displaying said metadata representation on said graphical user interface (fig. 5; *the metadata representation is generated and displayed as element 100 in window 90).*

As per claim 3, Barber teaches the steps of: selecting at least one further iconic representation of at least one further image displayed on said graphical user interface; moving said iconic representation to a position defined by said displayed metadata representation; and creating an association between said further image and said at least one metadata item (col. 9, lines 30-35).

Claims 7-8 are similar in scope to claim 2, and are therefore rejected under similar rationale.

Claim 9 is similar in scope to claim 3, and is therefore rejected under similar rationale.

Claims 12-13 are similar in scope to claim 2, and are therefore rejected under similar rationale.

Claim 14 is similar in scope to claim 3, and is therefore rejected under similar rationale.

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Claims 17-18 are similar in scope to claim 3, and are therefore rejected under similar rationale.

Claims 22-30 are similar in scope to claims 1, 7, 12, 1, 7, 12, 1, 7, and 12, and are therefore rejected under similar rationale. Barber further teaches the step of generating a query based on said selection of said plurality of iconic representations (col. 9, lines 40 et seq.)

#### ***Allowable Subject Matter***

5. Claims 4-5, 10-11, 15-16, and 20-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4-5, 10-11, 15-16, and 20-21 are allowable over the art of record because the art of record do not teach all of the claim limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Inquires***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is (571) 272-4064. The examiner can normally be reached on Monday - Friday from 7:300 am to 4:00 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (571) 272-4063.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Sy D. Luu/

Sy D. Luu

Primary Examiner, Art Unit 2174

SDL: 6/25/07